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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,489	09/27/2007	Haayo Nicolai	NL040365US1	1326

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
PO BOX 3001  
BRIARCLIFF MANOR, NY 10510-8001

EXAMINER
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TEATERS, LINDSEY C

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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11/12/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/594,489	<b>Applicant(s)</b> NICOLAI, HAAYO	
	<b>Examiner</b> LINDSEY C. TEATERS	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/27/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 1, line 2, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
4. Regarding claim 9, line 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al (US 5,372,061) in view of Anderson (EP 1 076 212 A2), cited by applicant.

Albert et al teaches a method of operating a boiler of a coffee maker (fig 1), which boiler (12) comprises a container for containing water and a heating element (36) for heating the water to a predetermined temperature, the method comprising activating the heating element during a predetermined length of time, measuring at least one characteristic of

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the thermal behavior of the boiler, verifying a need for more water in the boiler by verifying whether the measured characteristic is within a particular range by comparing the measured characteristic to a reference characteristic, where the range signals a temperature of the boiler is too high, filling the container of the boiler with a predetermined quantity of water, and activating the heating element to heat the water in the container of the boiler to the predetermined temperature (col. 1, lines 25-42, col. 3, line 45 through col. 4, line 38, col. 5, lines 7-10), a pump (16) for pumping water to the boiler and where the fourth step comprises activating the pump during a predetermined length of time (col. 3, line 65 through col. 4, line 13), the fifth step is initiated before the fourth step has finished (col. 1, lines 34-42), the predetermined quantity of water with which the container of the boiler is filled during the fourth step is equal to or smaller than the volume of the container (col. 1, lines 34-42), a controller (47, 49) which is programmed such as to perform the method for operating the boiler (col. 3, line 64 through col. 4, line 44), and a temperature detector (34) for detecting a temperature inside the boiler and which is located at a distance away from the heating element (fig 3).

Albert et al fails to teach that the measured characteristic determines if the boiler is empty, that the second step comprises measuring a temperature change in the boiler over a time interval having a predetermined length and a predetermined starting time with respect to a starting time of the operation of the heating element, the second step is performed after the predetermined length of time during which the heating element is activated has lapsed, and that the second step is performed after a temperature change of a filled boiler measured over a predetermined time interval, has become smaller than a

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temperature change of an empty boiler, over the same time interval. Anderson, however, teaches measuring a temperature change in a boiler of a hot beverage machine over a time interval having a predetermined length and a predetermined starting time with respect to a starting time of the operation of a heating element to determine if the boiler is empty (paragraphs [0003] - [0006]), and that a measuring step is performed after the heating element activation has lapsed and after a temperature change of a filled boiler has become smaller than the temperature change of an empty boiler (paragraphs [0003] - [0006]).

In view of Anderson's teachings, it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the steps given above with the method for operating a boiler, taught by Albert et al. Motivation can be found in paragraph [0002] of Anderson, and it is also noted that dry starting heaters meant to be submerged causes damage to the heaters and also may cause a hazardous situation for the user.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Duncan (EP 0139395 A2), cited by applicant, teaches all of the limitations of claim 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY C. TEATERS whose telephone number is 571-

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270-5913. The examiner can normally be reached on Mon-Thur 8:30am-6:00pm ::  
alternating Fri 8:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDSEY C TEATERS/  
Examiner, Art Unit 3742

11/03/2009

/TU B HOANG/

Supervisory Patent Examiner, Art Unit 3742